

MINUTES OF THE  
JOINT HEALTH AND HUMAN SERVICES APPROPRIATIONS SUBCOMMITTEE  
WEDNESDAY, JANUARY 20, 2010, 1:00 P.M.  
Room 30, House Building, State Capitol Complex

Members Present: Sen. Allen M. Christensen, Co Chair  
Rep. John Dougall, Co Chair  
Sen. Patricia W. Jones  
Sen. Margaret Dayton  
Sen. Daniel R. Liljenquist  
Rep. Kraig Powell  
Rep. Rebecca Chavez-Houck  
Rep. Keith Grover  
Rep. Ben C. Ferry  
Rep. David Litvack  
Rep. Ronda Rudd Menlove

Members Excused: Rep. Paul Ray

Staff Present: Russell Frandsen, Fiscal Analyst  
Stephen Jardine, Fiscal Analyst  
Ernest Hayes, Secretary

Public Speakers Present: Kade Minchey, Supervisor, Office of the Legislative Auditor General  
Tim Osterstock, Manager, Office of the Legislative Auditor General  
David N. Sundwall, Executive Director, Utah Department of Health  
Michelle Church, Executive Director, Utah Department of Health  
Michael Hales, Director - Utah Medicaid, Utah Department of Health  
Paul Muench, President, Molina Healthcare

A list of visitors and a copy of handouts are filed with the committee minutes.

The meeting was called to order by Co-Chair Sen. Christiansen at 1:44 p.m.

1. Welcome and Overview by Sen. Christiansen

2. Approval of Minutes

Sen. Christensen stated action will not be taken on the minutes of the last meeting.

Analyst Russell Frandsen introduced the materials and handouts to be followed during the meeting.

3. Follow up on "A Performance Audit of Utah Medicaid Managed Care"

Kade Minchey, Supervisor at the Office of the Legislative Auditor General began the follow up and spoke about the Medicaid system in Utah and the audit on managed care. Utah has two plans, Molina and Healthy U. Select Access, another provider, meets the technical requirements of being a managed care plan and has access to the intermountain network. It services about 30% of the Medicaid population in Utah. Mr. Minchey highlighted cost plus contracts and the inadequate oversight over these plans and

how this produces excess costs in managed care. Excess cost has existed in managed care. The audit explains various methods for effectuating medicaid cost savings in managed care. Milliman, a well known health care consultant was contracted with for this audit. Mr. Minchey clarified risk adjustment for Sen. Christiansen and stated that in the audit, the actuaries have made adjustments in their data to provide for accurate comparisons. Through risk adjusted analysis, the actuaries have estimated that a savings of \$6 million to \$12 million can be realized. Mr. Minchey and the OLAG concur. Milliman also indicated that additional savings can be realized through improved health plan contracts, utilization management efforts and review of prior reimbursement levels. Achieving these savings may take some time and may require changes in Utah's Medicaid infrastructure for the Select Access plan. The audit recommends that the legislature direct Utah Medicaid to report on the cost savings obtained. Other recommendations are given on page 37 and page 53 of the audit. A benchmark analysis was also conducted by Milliman which compared Healthy U to other plans. That analysis can be found on page 33 of the audit. Sen. Christiansen asked for an explanation regarding Molina's capitated contract. Mr. Minchey clarified that Molina gets a flat rate each month to manage their recipients. Mr. Minchey went on to explain chapter 4 of the audit and stated that his office recommends that the legislature provide policy guidance to Utah Medicaid on appropriate cost control reimbursement methods and require Medicaid to report progress on this issue. Rep. Menlove asked about cost monitoring and who should be monitoring certain costs. Sen. Christiansen commented on a capitated program and the impact on quality versus cost.

Rep. Dougall stated that auditors can only perform spot audits and cannot be expected to audit a whole program throughout the year, and commented on the need for utilizing auditors effectively in providing the committee with insight as a way to further their accountability. Rep. Menlove responded to Rep. Dougall's comments in saying that it seems like it would be the committee's responsibility to look at some level of accountability for some information gathering.

Mr. Minchey continued onto Chapter 5 and explained the concept of how quality of care oversight is effective but some improvement is needed. It is driven by compliance to federal mandates. Utah Medicaid is given some authority to customize it's program however. Medicaid should also implement more cost savings options. In FY 2009, hospitals were overpaid \$7.1 million. Sen. Christiansen asked how the overpayment came about. Tim Osterstock, manager at the Office of the Legislative Auditor General responded by saying that the Medicaid computer software system was calling up the wrong codes and billing higher rates. Sen. Jones asked about hospital payments and reimbursement. Mr. Minchey responded and said that their analysis only looked at what medicaid was reimbursing. Mr. Osterstock added to his response by speaking about costs. Sen. Christiansen stated that the ability to negotiate contracts is difficult.

Dr. David Sundwall, Executive Director of the Utah Department of Health, took the speaker's seat to comment on the audit. He stated that it is a useful management tool. He added a note of caution to avoid the temptation of using the figures as a way of deciding budget cuts. They are estimates at best. We don't have the tools to do what is theoretically possible.

Michael Hales, Director of Utah Medicaid, added to Dr. Sundwall's comments. He explained that the cost plus reimbursement plan as a managed care model is preferred as opposed to a fee for services model. Opportunities for the Select Access program are being looked at. \$6 million to \$12 million is an estimate of cost savings. Sen. Christiansen asked about the savings estimate. Mr. Hales explained that the assumption is that managed care systems can save money. The claim amount is an achievable savings projection. Molina has been moved to a risk based contract. We are looking at the Select Access model. Sen. Christiansen asked about why we should not give Molina to the whole state. Mr. Hales said that any

contractor is able to participate in the Medicaid program. He explained the error in claims being paid from the emergency department. Mr. Hales feels that the savings that could be realized from managed care are more theoretical. Sen. Christiansen commented on FHP coverage in years past and how they were not able to be paid adequately for rendered services. Mr. Hales then opened it up to questions. Rep. Menlove asked about emergency room use and whether there is any education to the recipients on whether to go to an ER or a primary care provider. She referred to his comments and how that it is a serious cost area. Mr. Hales responded by saying that there is education in that area and that access to primary care providers is being widened. Rep. Menlove asked about whether there is any online or web-based education available to recipients. Mr. Hales stated that the department is working with a third party vendor as of right now to implement something like that in the future. Sen. Christiansen said that it would almost be like a triage service.

Rep. Chavez-Houck asked about the possible savings and implementing changes and what the initial investment might look like. Mr. Hales referred to an up front investment of more than \$12 million and said that hopefully once the infrastructure is implemented that cost savings would be able to be realized. He mentioned that Molina's contract was easy to convert into a risk based contract because the infrastructure was already in place. Sen. Jones asked a question about medicaid and emergency room use with regard to mental health and substance abuse issues. Mr. Hales told the committee that no data on that is currently available but that emergency room usage is higher among Medicaid recipients in general. Sen. Jones wondered if some of the cuts might exacerbate the problem as the committee considers cuts. Mr. Hales explained that certain cuts might inflate other costs like the fact that eliminating dental health for pregnant women might increase costs by contributing to a higher rate of premature delivery.

Dr. Sundwall thanked the committee for raising the question about access to primary care physicians and stated that Utah ranks 44th in the nation in ratio of primary care physicians to health care recipients and that there needs to be an adequate number of health care providers in order for the department to be able to recommend that patients see primary care providers.

Paul Muench, President of Molina, began his presentation. He stated that he also has cost savings ideas and that Molina is dedicated to providing low cost, high quality care for Medicaid recipients. A general comment and response to data in the audit will be forthcoming. There is an opportunity for cost savings and room for medical cost improvement. We will work with the health department to implement those cost savings measures. Over the past 5 years, Molina has generated more than \$55 million in savings in various ways. As of September 1, 2009, Molina is operating under a risk contract. He referred to Sundwall's comments regarding the interpretation of data in the audit and correctly using it. Molina has also implemented an aggressive emergency department savings program. Molina also offers a nurse access line to its recipients. It is publicized to members. There is a focus on pregnancy management and it has been identified as a high cost area. In this effort, Molina has instituted the use of a drug known to extend the term of pregnancy for women who have delivered prematurely in the past, which contributes to medical cost savings in that area. Molina is working with the health department on changes to Medicaid payments. Molina also supports strongly a primary care physician access requirement for its members. He stated that there is a challenge with that in that it is hard to hold members accountable. The primary care physician is penalized and there is no personal responsibility required for the healthcare recipient. In 2009, over \$1 million was paid in emergency room services with a diagnosis code of behavioral health.

Vicky Wilson, Director of the Healthy U program spoke next. The Healthy U program is committed to working together to achieve quality care at the most affordable cost. Healthy U is currently the lowest cost plan for the moment but there is room for improvement. Mrs. Wilson stated that she will review the

audit thoroughly in an effort to improve service and is looking forward to working with the state. Rep. Dougall asked about the medical home concept and a phone number that recipients could call.

#### 4. Buildings in Departments of Health and Human Services

Russell Frandsen spoke about the expenditures on buildings and referred to page 4 of the issue brief handout. The Department of Health is spending a total of \$1.9 million on buildings. \$300,000 of that amount is for leases and \$1.5 million is for operations and maintenance. The Department of Health has 8 state owned buildings and 10 leased buildings. The cost of the buildings per person is shown in the issue brief. Mr. Frandsen noted the memorandum at the end of the document which is a letter of reminder regarding breaking leases and cost increases. Rep. Litvack asked a question regarding the cost per person and the ranking of buildings and the use of space. Mr. Frandsen mentioned the ranking of clinics in response to his question. Rep. Ferry wanted to comment on the cost effectiveness per square foot of each building and leases. Stephen Jardine, fiscal analyst then spoke about human services. Mr. Jardine spoke about the cost for office space and responded to Rep. Ferry's inquiry. Lease expiration dates can be looked at as a way to improve efficiency and when to sell or consolidate buildings.

#### 5. Staff Proposal to meet FY 2010 and 2011 Budget Reduction Targets With Associated Public Comment

Stephen Jardine, fiscal analyst, spoke about recommendations and referred to the handout of reductions already realized, staff's recommendations and options for the sub-committee to consider. He then explained in an overview, the human services recommendation. He reminded the committee of the two targets of 4% and 5% to come back. For FY2010, the analyst recommends to accept the reductions that the governor has requested. The governor's request adds up to 1% of the 4%. The remaining 3% should come from, and the analyst's recommendation is to go to two other excess funds and to use them. He added that staff recommends also to extend the hiring freeze to come up with \$760,000 and to target everyone at a 0.75% reduction rate. Rep. Litvack asked about cuts and whether they are ongoing cuts. Mr. Jardine responded by saying that his understanding is the same as Rep. Litvack's and that they are one time cuts. Rep. Dougall added that cuts in 2010 will help reach the 2011 target. Rep. Litvack asked about the disabilities trust fund and restricted accounts. Mr. Jardine clarified that it is an account that applies to the budgetary procedures act. Rep. Litvack requested additional insight on the hiring freeze and whether those dollars will actually be there. Mr. Jardine responded and clarified by stating that the list of recommendations represents a number of options to be used by the committee to reduce the budget.

Rep. Powell asked Mr. Jardine to explain the add back ranks on the budget recommendation sheet and how the highlighted agency recommendations factored into the arrival at the add back ranks. Mr. Jardine wanted to let the agency speak for itself but also said in reference to the add back ranks that the largest number is the first to go, according to the governor's executive order. Rep. Ferry asked for clarification on the prioritization as well. Mr. Jardine also noted that even though there are many items on the list, it shows FY2010 and FY2011. Mr. Frandsen continued the discussion by reviewing what is and is not on the sheet and went over the add backs line by line. Rep. Litvack asked a question about what items get us to our target of 4%. Mr. Frandsen responded. Rep. Ferry asked about two totals on the back of the handout on the last page. Mr. Frandsen responded in regards to those total reductions and added that there may be problems with those numbers. Rep. Litvack asked whether these figures take into consideration the cost of the tools that will be required to realize the reductions being reviewed. Mr. Frandsen said that the figures assume ramping up to the savings and covering the costs in the same funding. There is no new money considered for infrastructure. He then continued onto the last page of the base budget reductions.

Michelle Church, Executive Director - Department of Health and Human Services, responded to a previous request by Sen. Jones and spoke about a balanced approach to reductions. The department's approach came from a little bit from everywhere. She highlighted the difference between their approach and the staff's recommendations spoken of by Mr. Jardine of an across the board cut. Are we willing to go to that point to get to the \$10 million? With everyday that goes by, there is less time to get to the \$10 million mark and that a 4% cut implemented in March is actually a 16% cut. She reminded the committee that the department went through the very painful process of cutting every program across the board last year. What programs are we willing to cut and which ones are we not? Sen. Christiansen asked Mrs. Church if she would be willing to do some trading and she responded that she would not like to. Rep. Litvack was curious about all of the items on the program cuts, if we were to eliminate all of those program cuts, what would the amount below the target be. Mrs. Church stated that it would be about \$2 million. Rep. Litvack asked about the impact of the program cuts on clients served and asked for her best guess. Mrs. Church told the committee that there would be a large reduction in services, for example in disability services. It is a precipitous step to take. We should tie these people over a little bit with another approach. Case workers, with respect to the hiring freeze, would have to take on larger loads and less people would be serviced by those social workers. There would be a cumulative effect that would be seen. Every incremental cut is depleting their service more. Sen. Christiansen stated that the committee is charged with finding those cuts and if Mrs. Church was willing to trade some items in that same backfill area he would be willing to do it. Hopefully they will be backfilled but there are no guarantees when we see the figures come out in February. If we come back with only 3% in cuts, they are going to fire us.

Mr. Jardine clarified that there is more left in the disabilities trust fund and under the budgetary procedures act, some of that money could be used so as to not cut some other programs. Sen. Christiansen reminded Mrs. Church that the committee is mandated with finding those cuts. In response, Mrs. Church let the committee know that she was looking at using the interest from the fund but not the principal and said she had not felt like she was statutorily authorized to do it. Sen. Liljenquist wanted to say that the committee really hopes that they will be able to work with Mrs. Church as they approach the Executive Appropriations Committee. It has been a kinder, gentler year so far. We are hopeful that the February numbers will look better. The legislation will not be effective until later. Mrs. Church stated that the hiring freeze has started.

Dr. Sundwall added that we have done a good job so far in finding cuts given the spirit of the economy and went over some of his recommendations from the list. We have worked hard internally to come up with the savings. In terms of adding to the savings to come up with the 4%, he urged the committee to consider his options. We support the governor's 3%. Mr. Frandsen mentioned that certain funds from the medicaid restricted fund were available to come up with additional savings and they could be used. If you have specific questions on Medicaid I would refer to Mr. Hales. He urged the committee not to go to the optional risk because it would jeopardize our ability to serve the people of Utah. We are also expecting to here something about a previous law suit in the amount of \$20 million. Mr. Frandsen stated that \$20 million will come back.

Sen. Jones has thought long and hard about these cuts. It is important to hear the recommendations of our professionals. She commented on her son's job and the sacrifices he makes to earn his money. It breaks my heart to see that many of these services are on the chopping block. She said that she hopes the committee will look at the human element in determining the allocation of funds. It is critical to consider new options including the tobacco tax increase. In the end, I am seriously hoping that we will consider the recommendations of Mrs. Church, and the others who work in this arena.

Rep. Ferry asked Dr. Sundwall to clarify his proposal. Dr. Sundwall responded. My recommendations are

cross referenced on the analysis. We are on the same page as the analyst. Mr. Hales also commented on the medicaid restricted account. Mr. Ferry asked about FY2011. Dr. Sundwall said that continuing with the cuts will certainly help reach the target. Mr. Hales stated that the biggest difference is the timing in the use of the Medicaid restricted account. Since the 2010 budget is looking at a one time cut of 4% that that would be more appropriate to shift more money from 2011 back to 2010. That is why we use more of those figures from 2010. Mr. Frandsen jumped in to explain certain differences with respect to going into FY2011. All personal services are reduced by 3%, and everything on this list is a Medicaid item. Rep. Ferry reiterated his concerns that the committee needs to see and understand all of the recommendations that are delineated.

Rep. Litvack proposed that the committee give the public opportunity to respond to the proposals and offer their input. He stated that upon looking at the list, that he does not fully understand the full impact of all of the recommendations on clients. Rep. Powell reminded Rep. Litvack that time has already been given to the public previously for that and that it would take a substantial amount of time to engage in that at this point. Rep. Litvack stated that what we have before us now are very specific recommendations and what he is looking for is a clarification and more understanding with additional input from the public. Sen. Christiansen suggested that the committee move on based on the fact that sufficient testimony has already been heard from both departments.

Rep. Powell spoke in regards to the disabilities trust fund and reserved the right to make a motion about the rankings. He asked whether it was possible to use more of the disabilities trust fund. How did the staff come up with the amount that we are using from the disabilities trust fund. Mr. Jardine spoke in response to Rep. Powell's inquiry by stating that there is just over \$4 million in principal and interest in the fund. There is law that restricts what goes into it. There are also restrictions on how it is used. He quoted the statute that allows appropriation from these funds.

Rep. Powell said that he did not know the background of the disabilities trust fund. Rep. Menlove had a question in regards to the human services budget. Is there a future opportunity for some across the board cuts for FY2011. Rep. Powell said that there would be ample time in the coming weeks to discuss those matters.

**MOTION :** Rep. Powell moved to remove the line items of .75 % for all DSPD line items and to increase the use of disabilities trust fund by the corresponding amount.

Rep. Powell then spoke to the motion by stating that he is convinced that there are needs that are seriously being unmet. Mr. Frandsen clarified the motion by speaking on the numbers.

**SUBSTITUTE MOTION:** Rep. Litvack moved to remove all of the one time 0.75% reductions in human services and to utilize part of the balance left over from the disabilities trust fund to remove those items from the list.

Rep. Powell was concerned about the legitimacy and fairness of taking from the disabilities trust fund and applying it to the other divisions.

Sen. Liljenquist was supportive of the original motion and resisted the substitute motion. He was supportive of backfilling the DSPD cuts.

Sen. Jones said that all areas are critical and extremely important.

**MOTION:** In light of the time, Rep. Menlove called question on the motion.

The motion passed unanimously.

Rep. Litvack made further comments on his original motion and responded to Rep. Powell's comments by saying that the committee needs to offset as much as possible.

Rep. Dougall restated the substitute motion and went over some numbers.

The substitute motion failed with Rep. Chavez Houck, Rep. Litvack and Sen. Jones voting in favor.

Rep. Dougall went back to the underlying motion and restated the motion for the committee.

The motion passed unanimously.

**MOTION:** Rep. Litvack moved to adopt as the committee's recommendations for department of health, for FY2010, the recommendations that were forwarded by the department of health.

Rep. Dougall restated the motion and called for further discussion.

**SUBSTITUTE MOTION:** Rep. Ferry moved to approve the recommendations for FY2010 as proposed by staff as amended. Rep. Ferry then spoke to the motion and stated that the problem with Rep. Litvack's motion is that it leaves the committee with no one time money to deal with FY2011.

Rep. Litvack spoke against the substitute motion and further restated the original motion. Sen. Liljenquist spoke in favor of the substitute motion. Sen. Christiansen spoke to Rep. Litvack in regards to his resistance of the substitute motion. Rep. Ferry further clarified the substitute motion and urged the committee to adopt the motion.

The substitute motion passed with Rep. Chavez-Houck, Sen Jones, and Rep. Litvack voting no.

**MOTION:** Rep. Litvack moved to have the chairs of the sub-committee draft and send a letter to all the members of the executive appropriations committee that it is the opinion of all the members of the health and human services subcommittee that there is a need for backfill in FY2010 and there is great concern in trying to balance the FY2011 revenue shortfall with cuts alone.

Rep. Ferry requested that the committee divide the motion with cuts only separated from the first part.

Rep. Dougall stated that he interprets the motion to mean that we can't cut deeper and said that he would be reluctant to put his name on a letter that implied that. Rep. Litvack responded and stated that he is of the opinion that the committee can't cut deeper.

Sen. Liljenquist asked Rep. Litvack about the motion and he clarified. He is not excluding cuts. Rep. Powell spoke against the motion and Rep. Litvack responded by saying that there is a time when we need to stand up and advocate for the departments that we are in charge of. Rep. Dougall clarified the idea of need versus desire for backfill.

The motion failed with Rep. Chavez-Houck, Sen. Jones, and Rep. Litvack voting yes. There was no

further discussion on the motion.

Sen. Christiansen suggested that the committee come prepared to discuss the FY2011 budget.

6. FY 2010 Budget Discussion, Voting and Prioritizing

**MOTION:** Rep. Litvack moved to adjourn.

The motion passed unanimously.

Co-Chair adjourned the meeting at 5:00pm

Minutes recorded by Ernest Hayes, Secretary

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Sen. Allen Christensen, Committee Co-Chair

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Rep. John Dougall, Committee Co-Chair